

# Notice of Allowability

Application No.

10/786,275

Examiner

Michael P. Stafira

Applicant(s)

MARQUARDT ET AL.

Art Unit

2877

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 5/11/2005.
2. ☒ The allowed claim(s) is/are 1-25.
3. ☒ The drawings filed on 24 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____  |

### **DETAILED ACTION**

In the Amendment filed May 11, 2005 on pages 2-9, the incorrect application number is indicated in the header; application number should be 10/786,275 not 10/786,274. Applicant is requested to submit a supplemental amendment in response to this office action to correct the error so as not to delay the issuance of the current application.

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

- a. On page 1 of the specification line 9 after "filed January 23, 2002" insert --now U.S. Patent 6,831,745--.

### ***Allowable Subject Matter***

1. Claims 1-25 are allowed over the prior art of record.
2. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 1, the prior art fails to disclose or make obvious a spectroscopic analysis method for detecting the presence or measuring the concentration of analytes in a sample, said method comprising the steps of directing said collimated incident optical beam through an

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optical immersion probe comprising a probe housing tube having a first end at an opening and a second end, a spherical lens fixed within said opening of said probe housing tube, and a seal positioned between said spherical lens and said probe housing tube, wherein said spherical lens focuses said incident optical beam; collecting scattered light from said analytes with said spherical lens, thereby generating a beam of scattered light; and analyzing and detecting said beam of scattered light with a photodetector, thereby detecting the presence of analytes in the sample, measuring the concentration of analytes in the sample or both, and in combination with the other recited limitations of claim 1. Claims 2-22 are allowed by the virtue of dependency on the allowed claim 1.

Regarding claim 23, the prior art fails to disclose or make obvious a spectroscopic analysis method for detecting the presence or measuring the concentration of analytes in a sample, said method comprising the steps of directing said collimated incident optical beam through an optical immersion probe comprising a probe housing tube having a first end at an opening and a second end, a spherical lens fixed within said opening of said probe housing tube, and a seal positioned between said spherical lens and said probe housing tube, wherein said spherical lens focuses said incident optical beam; collecting fluorescent light from said analytes in said sample with said spherical lens, thereby generating a beam of fluorescent light; and analyzing and detecting said beam of fluorescent light with a photodetector, thereby detecting the presence of analytes in the sample, measuring the concentration of analytes in the sample or both, and in combination with the other recited limitations of claim 23. Claims 24-25 are allowed by the virtue of dependency on the allowed claim 23.

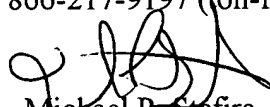
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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Stafira whose telephone number is 571-272-2430. The examiner can normally be reached on 4/10 Schedule Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley can be reached on 571-272-2800 ext. 77. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Michael P. Stafira  
Primary Examiner  
Art Unit 2877

July 6, 2005